dictions, however, this doctrine has been extended to cases hardly within its reasoning. For example, it has been decided in Michigan that possession by one tenant in common is constructive notice of an unrecorded conveyance to him from his co-tenant, as against a subsequent mortgagee of the latter who had no actual notice.[2] Taking for granted the proposition that possession under a contract to purchase is constructive notice of the possessor's rights, it is argued that the rule cannot be altered by the fact that such possessor holds also a present record interest in the land. The Supreme Court of Texas, apparently disregarding a former contrary decision in its own jurisdiction,[3] has recently reached the same conclusion. *Collum* v. *Sanger Bros.*, 82 S. W. Rep. 459.

If the reasoning of these cases is correct it must be equally applicable to an unrecorded release by the remainderman to a tenant for years, for life, or in tail against a subsequent vendee, mortgagee, or judgment creditor of the remainderman without actual or record notice of the conveyance. And the question is squarely raised whether possession which may be explained under a right appearing of record should be constructive notice of another and different right. As the object of the registry system is to facilitate transfers of land by protecting those who deal with the owners of the record title, the purchaser ought, unless there is some potent reason to the contrary, to be able to rely upon the record. Therefore, when his search reveals an instrument entirely consistent with the possession of the tenant, he should be permitted to consider it a complete explanation.[4] Under such circumstances he certainly is not acting negligently or in bad faith. Evidently one of the parties must suffer from the wrongful act of the original grantor, but justice demands that it should not be the wholly innocent party. Since the difficulty was made possible by the laches on the part of the tenant in failing to have his conveyance recorded, he should suffer the consequences.

Imputed Negligence in the Case of a Gratuitous Passenger. — It is generally settled that a passenger in a public conveyance does not so identify himself with the carrier that the latter's negligence, contributing to the passenger's injury, prevents his recovery from a negligent third party.[1] The position of a gratuitous passenger in a private conveyance not controlled by his own servant, though seemingly based upon similar principles, is perhaps more in dispute. Many cases of the sort, apparently involving imputed negligence, have in reality gone off upon other grounds. For example, the passenger himself may be negligent in permitting an incompetent person to drive him. More frequently a plaintiff is guilty of actual negligence at the time of the accident; for if he has any control over his host or his driver he is not absolved from a duty to take reasonable care in noticing and pointing out dangers.[2]

But for imputed negligence itself we find a well-recognized field in cases of joint enterprise. Familiar instances are where a number of men hire a

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[2] Weisberger *v.* Wisner, 55 Mich. 246.
[3] Allday *v.* Whitaker, 66 Tex. 669.
[4] Palmer *v.* Bates, 22 Minn. 532; May *v.* Sturdivant, 75 Iowa 116; Plumer *v.* Robertson, 6 Serg. & R. 179 (Pa.); Staples *v.* Fenton, 5 Hun 172.

[1] Little *v.* Hackett, 116 U. S. 366.
[2] Whitman *v.* Fisher, 98 Me. 575; Allyn *v.* Boston, etc., R. R. Co., 105 Mass. 77.

barge for an excursion, or where they are using a team for their own pecuniary profit, not for that of their employer, in moving furniture.[3] In such an undertaking each is authorized to act for all with respect to the means employed in executing the common purpose.[4] Each, as principal, has a corresponding right of control and direction. From this community of interest and control it may easily and justly follow that one of the participants impliedly assumes a liability to third persons for the negligence of his fellows, and at the same time a disability to sue for injuries to which they have contributed.[5] The sole basis for imputed negligence so called would then seem to be some such privity as that existing between principal and agent, one dependent upon an express appointment or upon an appointment implied from such an interest and control as may properly make one responsible for the negligent acts of another.[6] In Michigan, although contributory negligence is still imputed to the ordinary gratuitous passenger, in line with the now overruled English case of Thorogood *v.* Bryan,[7] a recent decision in that jurisdiction, recognizing that such imputation of negligence is founded upon a "fiction" of agency, refuses to impute to a child the negligence of its driver, for the excellent reason that an infant is incapable of having an agent. *Hampel* v. *Detroit, etc., Ry. Co.*, 100 N. W. Rep. 1002. Consistency would appear to demand that the adult passenger in Michigan and wherever contributory negligence is imputed be liable directly, upon this doctrine of agency, for his driver's negligence. These two results, the liability and the disability, seem inseparable in any case of imputed negligence. It is difficult to conceive of such a privity as will bring about the one and not the other.[8] If the negligence of A is to be treated as the negligence of B it must be so treated for all purposes.

The majority of courts, however, fail to find any privity or agency in the usual case of a gratuitous passenger and his host or driver.[9] They are coming to treat in the same way the gratuitous passenger and his host, the paying passenger and his carrier, and the infant and his custodian. Consequently in each of these cases where they find no such privity as should directly tax the one for the other's fault he is not indirectly taxed by means of imputed negligence for the other's contribution.

FOREIGN STATUTES OF LIMITATION. — The courts of one state will enforce a right acquired in another state, but in so doing will apply their own law of remedies. Since a statute of limitations is generally held to affect the remedy and not the right, in a suit on a right acquired in another state, the statute of limitations of the forum will be applied.[1] If, however, in the jurisdiction in which the right is acquired, the rule of law is that the statute of limitations destroys the right as well as the remedy, no action will lie in another jurisdiction after it is barred in the jurisdiction in which

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[3] Cass *v.* Third Ave. R. R. Co., 47 N. Y. Supp. 356.
[4] See Koplitz *v.* City of St. Paul, 86 Minn. 373.
[5] Stroher *v.* Elting, 97 N. Y. 102; see Elyton Land Co. *v.* Mingea, 89 Ala. 521, 529.
[6] The Bernina, L. R. 13 App. Cas. 1, 16.
[7] 8 C. B. 115.
[8] Beach, Contrib. Neg. § 103 *et seq.*
[9] Union, etc., R. R. Co. *v.* Lapsley, 51 Fed. Rep. 174; Cunningham *v.* City, 84 Minn. 21. *Contra*, Prideaux *v.* City, 43 Wis. 513.

[1] M'Elmoyle *v.* Cohen, 13 Pet. (U. S.) 312.